

THE HONORABLE TIFFANY M. CARTWRIGHT

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

PHILLIP P. COMBS & JAMIE COMBS,  
husband and wife,

Plaintiffs,

v.

NATIONWIDE INSURANCE COMPANY  
OF AMERICA, a foreign corporation,

Defendant.

No.: 3:22-cv-5684-TMC

JOINT MOTION FOR RELIEF FROM A  
DEADLINE **AND ORDER**

HEARING DATE: SEPTEMBER 19, 2023

**I. INTRODUCTION**

Pursuant to the Court's instruction and the local civil rules, the parties jointly ask the Court to allow one deposition to be taken after the September 29, 2023 discovery cutoff. LCR 7(j); LCR 10(g); Dkt. # 25, p. 2:7-2:9. For the reasons set forth below, good cause exists for this minimal change to the case schedule.

**II. FACTUAL BACKGROUND**

On August 24, 2023, Plaintiffs' counsel first sent a request for Defendant's Rule 30(b)(6) deposition. The discovery cutoff was, at the time, on September 15, 2023 (Court's minute entry of April 4, 2023); it has since been moved to September 29, 2023. Dkt. # 25, p. 1:22.

1 Plaintiffs' Rule 30(b)(6) notice listed 19 topics, some with subparts. The parties held  
2 a conference, as Rule 30(b)(6) requires, on September 13, 2020, to discuss Defendant's  
3 objections to, and requests for clarification of, the topics. Counsel came to an agreement on  
4 most topics and is in the process of addressing the remaining disputes cooperatively, if  
5 possible.

6 Defendant will need to prepare three different persons as corporate designees, which  
7 takes a considerable amount of time. Each witness must review relevant documents and  
8 events, draw on individual knowledge and obtain fluency in corporate knowledge, and meet  
9 with counsel to prepare. Preparation takes at least 2.5 weeks because the witnesses are full-  
10 time employees with their usual responsibilities at (and outside of) work.

11 In the meantime, the parties have scheduled mediation for October 18, 2023.

### 12 **III. AUTHORITY**

13 The parties seek the Court's authority to schedule the Rule 30(b)(6) deposition after  
14 the discovery cutoff. The standard is good cause. Dkt. # 25, p. 2:8-2:9.

15 This request is not prompted by a lack of diligence or cooperation. Plaintiffs' request  
16 for Defendant's corporate deposition was not untimely, but time is a factor. Plaintiffs made  
17 the request later in the discovery period. The parties then had to confer about the topics  
18 before Defendant could correctly designate witnesses. At least three persons are needed to  
19 address the multiple topics Plaintiffs identified. Each witness needs to prepare, which takes  
20 several weeks at least.

21 Additionally, the parties are scheduled to mediate the matter on October 18, 2023.  
22 Statistically and practically, the parties have a realistic chance of settling the case with the  
23 mediator's assistance. Certainly, the chances of settling increase if the parties can focus on  
24 out-of-court resolution, rather than adversarial activities, during the weeks leading up to  
25 mediation. The expenses of preparing for and taking the Rule 30(b)(6) deposition could be  
26 minimized, or avoided completely, if Plaintiffs schedule this deposition *after* the mediation.

1 Finally, trial is set for February 20, 2023. Setting one deposition after the discovery  
2 cutoff will not likely impact this trial date.

3 **I. AUTHORITY**

4 For these reasons, the parties jointly ask the Court for relief from a deadline, the  
5 discovery cutoff, for the purpose of completing a single deposition.

6  
7 DATED: September 19, 2023

8 BASTION LAW, PLLC

9  
10 By /s/ Jesse Froehling

Jesse Froehling, WSBA #47881

11 E-mail: [jesse@bastion.law](mailto:jesse@bastion.law)

Dan McLafferty, WSBA #45243

12 E-mail: [dan@bastion.law](mailto:dan@bastion.law)

13 Attorneys for Plaintiffs

14 BULLIVANT HOUSER BAILEY PC

15  
16 By /s/ Pamela J. DeVet

Pamela J. DeVet, WSBA #32882

17 E-mail: [pamela.devet@bullivant.com](mailto:pamela.devet@bullivant.com)

18 Mia Stigler, WSBA #60125

19 E-mail: [mia.stigler@bullivant.com](mailto:mia.stigler@bullivant.com)

20 Attorneys for Defendant Nationwide Insurance  
21 Company of America

**ORDER**

It is so ordered.

DATED this 19th day of September, 2023.

A handwritten signature in black ink, appearing to read "Tiffany M. Cartwright", is written over a solid black horizontal line.

Tiffany M. Cartwright  
United States District Court Judge